

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re :
 : **Chapter 11**
SEARS HOLDINGS CORPORATION, et al., :
 : **Case No. 18-23538 (RDD)**
 :
Debtors.¹ : **(Jointly Administered)**
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¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

**OBJECTION OF RETAIL CONTRACTORS OF PUERTO RICO TO THE
FOURTH SUPPLEMENTAL NOTICE OF CURE COSTS AND
POTENTIAL ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES IN CONNECTION WITH THE
GLOBAL SALE TRANSACTIONS**

Retail Contractors of Puerto Rico, Inc. (“RCOFPR”), by and through their attorneys Schafer and Weiner, PLLC, hereby files this Objection (the “Objection”) to the *Fourth Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with the Global Sale Transaction* [Docket Number 2995] (the “Fourth Supplemental Cure Notice”) and states as follows:

BACKGROUND

1. On October 15, 2018 (the “Petition Date”) the above-captioned debtors (together, the “Debtors”) each filed voluntary petitions for bankruptcy relief under chapter 11 of title 11 of the United States Code, codified at 11 U.S.C. §101, *et seq.* (the “Bankruptcy Code”).² The Debtors have continued to operate their business and manage their properties as debtors-in-possession pursuant to §§1107 and 1108 of the Bankruptcy Code.

2. RCOFPR and certain of the Debtors, Sears, Roebuck and Co. and Kmart Corporation (together, the “Contract Debtors”), are parties to a series of

² The use of “sections” shall refer to the Bankruptcy Code unless otherwise specified herein.

contracts for the provision of construction services for several of the Contract Debtors' stores (each a "Contract" and together the "Contracts").

3. On November 19, 2018, this Court entered its *order Approving Global Bidding Procedures and Granting Related Relief* [Docket No. 816] (the "Global Bidding Procedures").

4. In accordance with the Global bidding Procedures, on January 18, 2019, the Debtors filed their *Notice of Successful Bidder and Sale Hearing* [Docket No. 1730]. As part of the asset purchase agreement entered into between Debtors and the successful bidder (the "Buyer"), Sears would file lists of executory contracts that the Buyer could assume as part of the sale, as well as the corresponding cure costs for each contract.

5. On January 18, 2019 the Debtors filed their *Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sales Transaction* [Docket No. 1731] (the "First Cure Notice"). Exhibit A to the First Cure Notice lists one (1) of the Contracts. *See* First Cure Notice, Exhibit A, page 244, no. 5848. The First Cure Notice indicates a cure amount of \$747,424.

6. On March 29, 2019 the Debtors filed the Fourth Supplemental Cure Notice [Docket No. 2995]. Exhibit A to the Fourth Supplemental Cure Notice lists ten (10) of the Contracts. *See* Fourth Supplemental Cure Notice, Exhibit A, page

on, Nos. 3-12. Among these ten Contracts is the Contract listed in the First Cure Notice. The Fourth Supplemental Cure Notice indicates that the cure amount for each Contract is \$0.00 (the “Proposed Cure Amounts”).

OBJECTION

7. The Proposed Cure Amounts are incorrect for all but two of the listed Contracts. The correct cure calculation is set forth below (the “Corrected Cure Amounts”):

Contract	Debtors’ Proposed Cure Amount	RCOFPR Corrected Cure Amount
Store #1935 Mayaguez	\$0.00	\$67,953.00
Store #1945 Ponce	\$0.00	\$38,177.00
Store #3882 Mayaguez	\$0.00	\$90,344.00
Store #3993 Juana Diaz	\$0.00	\$49,138.00
Store #7752 Yauco	\$0.00	\$61,965.00
Store #2355 Hatillo	\$0.00	\$607,466.95
Store #2675 Guayama	\$0.00	\$41,380.00
Store #7446 Cayey ³	\$0.00	\$0.00
Store #7784 Vega Alta ⁴	\$0.00	\$0.00
Store #1905 San Juan	\$0.00	\$271,846.66

8. In addition, Sears has not listed the Contract for Kmart store number 7768 in Guaynabo, Puerto Rico. The cure cost for this Contract is \$35,750.00.

³ Work did not begin on this project prior to the Petition Date.

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9. Prior to assumption of the Contracts, if any, the Debtors are required by §365(b)(1) to cure all outstanding defaults under the Contracts and compensate RCOFPR for any actual pecuniary loss.

10. The Proposed Cure Amounts are incorrect. RCOFPR asserts that the correct cure amount for the Contracts are a combined \$1,228,270.61, plus an additional \$35,750.00 for the Contract related to Kmart Store number 7768.

11. RCOFPR reserves the right to amend and/or supplement the Objection, including, without limitation, to include additional amounts that arise or become known to RCOFPR prior to assumption, to add or supplement objections to the Proposed Cure Amounts, and to raise any additional objections to the assumption of the Contracts.

WHEREFORE, RCOFPR respectfully requests that this honorable Court require the Debtors or the Buyer to pay RCOFPR the respective Corrected Cure Amounts as a condition to the assumption of any or all of the Contracts, add the Contract related to Kmart Store number 7768 in Guaynabo, Puerto Rico to the list of potential contracts that can be assumed and assigned, and grant RCOFPR all such further relief as this Court deems just and proper.

[Signature on next page]

Respectfully submitted,

SCHAFER AND WEINER, PLLC

/s/ Daniel J. Weiner

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Counsel for Creditor

Retail Contractors of Puerto Rico, Inc.

Dated: April 8, 2019